

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

918 CIVIL APPLICATION NO. 6361 OF 2018
IN FA/338/2018

HIRABAI HANUMANT BORSE
VERSUS
UNITED INDIA INSURANCE CO. LTD., THR ITS AUTHORIZED SIGNATORY
AURANGABAD AND ANR

...

Advocate for Applicant : Mr. Sabahat T. Kazi
Adv. for Respondents: Mr. M.A. Deshmukh

CORAM : K.K. SONAWANE, J.
DATE : 8th JUNE , 2018.

PER COURT:

Heard learned counsel for the applicant and learned counsel for respondent No.1 Insurance company. None appears for respondent No.2 owner of the offending vehicle.

2] Learned counsel for respondent Insurance company submits that the Insurance company has filed a first appeal and raised objection in regard to monetary liability imposed by the Tribunal on the Insurance company. He explained the circumstances and submits that the appellant/Insurance company is not responsible for making any payment of compensation to the claimant.

3] Admittedly, the Insurance company has deposited Rs. 2,15,668/- toward compensation in this case. The learned counsel for the applicant submits that even if the appellant/insurance company succeeds in the appeal, the monetary liability can be shifted on the owner. The applicant original claimant cannot be deprived to get the compensation.

4] I find force in the submissions advanced on behalf of the learned counsel for the applicant. In that view of the matter, I find no impediment to allow the applicant for withdrawal of some part of compensation to the extent of Rs. 1,60,000/- in this case. Definitely, it would sub-serve the purpose in the interest of justice.

5] Accordingly, for the reasons mentioned in the application, the application stands partly allowed. The applicant is hereby permitted to withdraw the lump sum amount of Rs. 1,60,000/- from the amount deposited by the appellant/insurance company in this case, towards the compensation amount, subject to condition that, the applicant shall furnish an undertaking to this court that in case any adverse situation arises, she would refund the amount withdrawn forthwith, as per the directions of this court. Accordingly, the application stands disposed of. Registry to do the needful for disbursement of the amount in favour of the applicant. Rest of the amount be deposited in Fixed Deposit Receipt in any Nationalized bank, initially for a period of two years, to be renewed till disposal of the appeal.

[K.K. SONAWANE]
JUDGE.

grt/-